

RD AN No. 3558 (4279-B)
June 13, 2000

SUBJECT: Business and Industry Guaranteed and Direct Loan Programs
Department of Labor Certification Appeal Procedures

TO: State Directors, Rural Development

ATTN: Business Programs Directors

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to provide guidance regarding appeal procedures when the Department of Labor (DOL) is unable to provide a certification of compliance with the provisions of paragraphs (2) and (3) of section 310B(d) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932 (d)(2) and (3)).

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 3471(4279-B), dated June 9, 1999.

IMPLEMENTATION RESPONSIBILITIES:

RD Instruction 4279-B, section 4279.164(a), states: AIf the loan is in excess of \$1 million and will increase direct employment by more than 50 employees, immediately send seven copies of the completed Form 4279-2 to the National Office. You should discuss this issue with the lender to ensure employment projections are realistic to avoid delays in loan processing as a result of unnecessary Department of Labor clearances.@ DOL will review the material submitted for completeness and forward complete forms to the State DOL where the project and any competitors are located.

EXPIRATION DATE:
June 30, 2001

FILING INSTRUCTIONS:
Preceding RD Instruction 4279-B

The State DOL will assess the impacts of the proposed loan on the existing markets and competition. This includes contacting the competitors listed on page 2 of Form 4279-2 for an assessment of the impact the loan would have on the competitor=s business. Once all State DOLs involved have submitted their findings to the National DOL, a certification of compliance or noncompliance will be issued.

Should DOL determine that the project is not in compliance with the provisions of the CONACT, the loan may not be made. The applicant may then submit documentation in support of its position or to refute DOL findings. This documentation should be submitted through you to the National Office. We will subsequently submit said documentation to DOL for reconsideration. If DOL reaffirms its denial after a review of all available facts and any additional investigation is made, the denial is considered final.

If you have any questions, please contact Fred Kieferle, Business Programs Processing Division, (202) 720-7818.

(Signed by Dayton J. Watkins)

DAYTON J. WATKINS
Administrator
Rural Business-Cooperative Service